

OLD COURT.—Monday, March 5th, 1883.

Before Mr. Justice North.

359. GEORGE WILLIAM FOOTE, WILLIAM JAMES RAMSAY, and HENRY ARTHUR KEMP, Unlawfully printing and publishing certain blasphemous libels. (*See page 557.*)

SIR HARDINGE S. GIFFARD, Q.C., with MESSRS. POLAND and LITTLETON Prosecuted; MR. CLUER appeared for Foote and Ramsay (only to argue any legal points); MR. HORACE AVORY for Kemp.

Before the defendants were given in charge MR. CLUER applied that the indictment might be quashed, on the ground that it was bad, in charging the three defendants together with committing one offence, whereas in fact the offence alleged was distinct in each; that it was contrary to the usual course, and that it prevented each from being a witness for the others. He relied principally on the case of Reg. v. Bolton and Parke, 12 Cox, p. 87, and also on Reg. v. Tucker, 4 Burrows, 2046, reported in Archbold, p. 47. MR. JUSTICE NORTH could not accede to the application; the present offence was one in respect of which the defendants might very properly be jointly charged, without being prejudiced by being so charged.

FREDERICK GEORGE FRAYLING. I am a clerk in the office of the Director of Public Prosecutions—I produce his allowance for this prosecution, under the Statute, signed by him (*read*).

ROBERT SAGAR. I am an officer in the Detective Department of the City Police—on 16th December last I went to the shop, 28, Stonecutter Street, Farringdon Street, City—it is an ordinary bookseller's shop—

"*The Freethinker*" was over the shop fascia—I went in and purchased two copies of the Christmas number of the *Freethinker*—the defendant Kemp was serving—I paid him 6d. for the two numbers—these produced (marked A and B) are the numbers—I went to the shop again on 20th January and purchased two more numbers of Kemp, for which I paid him 6d.—on 31st January I went again to the shop and saw him behind the counter serving—I produce two certificates of the registration of the *Freethinker*. (*The first was dated 2nd August, 1882, presented for registration by H. A. Kemp, 15, Harp Alley, Farringdon Street, proprietor; W. J. Ramsay, publisher, 20, Brownlow Street, Dalston; printer and publisher, H. A. Kemp. The second was dated 7th February, 1883; proprietor, G. W. Foote, 28, Stonecutter Street, journalist, residing at 9, South Crescent, Bedford Square. The Christmas number of the Freethinker (A) was put in, on the front page of which the name "G. W. Foote" appeared as editor; at the back, "Printed and published by H. A. Kemp, 28, Stonecutter Street," &c. &c. Among a list of Foote's publications appeared "Blasphemy no Crime: the whole question fully treated, with special reference to the prosecution of the Freethinker."*)

Cross-examined by MR. AVORY. 28, Stonecutter Street is an ordinary bookseller's shop—there were many other publications of different kinds there—I did not give any idea of what purpose I wanted these things for either on the first or subsequent occasions.

Cross-examined by Foote. I had instructions from my superior, Detective Inspector McWilliam, to purchase the two numbers on the 16th December—I paid for them out of my own pocket—no one has repaid me yet; I expect to be repaid—the same gentleman sent me to make the second purchase—he did not give me the money—I had not been paid for them—I have had money for travelling expenses and serving subpoenas—I expect to be refunded for those two copies—I suppose the money will come from the City Solicitor, Sir Thomas Nelson, who is now in Court—I did not see you in the shop when I purchased the first two copies; I saw you in the shop after I purchased the second two copies, but not when I purchased them.

Cross-examined by Ramsay. You spoke to me about this case once or twice when I have seen you—I remember your remarking that the City were expending plenty of money in engaging Sir Hardinge Giffard, who would not come without a heavy fee—I don't remember saying that the City had plenty of money and would not spare it; I don't recollect it, I might have said so.

Re-examined. I was acting in this matter under Mr. McWilliam's instructions—I saw a pile of these things in the shop—it was on 20th January, after I had purchased the second copies, that I saw Mr. Foote in the shop.

JOHN LOWE. I am collector of rates for the parish of St. Bride—28, Stonecutter Street is in that parish—I produce my rate-book, showing a rate dated 5th October last year—on 7th November last year I received this cheque for 2l. 1s. 3d. in respect of that rated house; it purports to be signed W. J. Ramsay—I paid it into my bankers and it has been credited to my account.

Cross-examined by MR. AVORY. The names on the rate-book were Charles Bradlaugh and Annie Besant—the same names are still there.

Re-examined. The persons rated are the occupiers—I received this

cheque for that particular October rate; it was made for six months—the usual demand-note was sent in—the 2*l.* 1*s.* 3*d.* was for the rate up to the end of March—when I get notice of a change of occupation I alter the rate-book.

WILLIAM JOHN NORRISH. I live at 20, Fowler Street, Camberwell Grove—I formerly lived at 28, Stonecutter Street, Farringdon Street, for about five years; it was the shop of the Freethought Publishing Company—at the commencement of October last that company was removed to Fleet Street—they vacated at the Michaelmas quarter—I was in the service of Mr. Bradlaugh and Mrs. Annie Besant; they represented the Freethought Publishing Company—up to that time Mr. Ramsay had been the manager of that company, and he was from day to day at the shop 28, Stonecutter Street—the *Freethinker* was sold there, but not by the Freethought Publishing Company—I decline to answer whether I used to sell it, or whether I have seen it sold in the shop, in case it might lead to a criminal information against me—I was not employed at all by Mr. Ramsay—I ceased to live at 28, Stonecutter Street when the Freethought Publishing Company removed to Fleet Street—I know Mr. Foote, he called in occasionally at Stonecutter Street when I was living there—if Mr. Ramsay and I were there he has seen us—Mr. Ramsay would be there at times attending to the business—I did not know where Mr. Foote lived—I know Mr. Kemp slightly—I don't know what he is by trade—I believe this cheque to be in the handwriting of Mr. Ramsay; I have no doubt of it—I should say this was his writing. (*The name and address in the bank-book.*) I should say the filling up of these registration forms are his writing—I am not sufficiently acquainted with Mr. Kemp's handwriting to speak to it—I have known him eighteen months or two years—I meet him occasionally—this "H. A. Kemp, 15, Harp Alley, Farringdon Street," on this second registration form may be his, I can't say for certain, to the best of my belief it is.

Cross-examined by MR. AVORY. I was at Stonecutter Street as a weekly servant to the Freethought Publishing Company at a weekly salary—I simply acted as shopman, under orders in everything I did—there was no facility there for printing—no printing was done there.

Cross-examined by Foote. I have seen you at Stonecutter Street only occasionally—the *Freethinker* had been sold there for some considerable time before I shifted into the employment of the Freethought Publishing Company—I did not see you often there during the period it was so sold—I never saw you transact any business there; I had no reason whatever to suppose that you transacted business there.

Cross-examined by Ramsay. You were manager of the Freethought Publishing Company up to the time they left Stonecutter Street, and when they shifted to Fleet Street—you are manager there still—you removed to Fleet Street in consequence of requiring larger premises—you were not entirely employed at Fleet Street in managing the business of the company.

Re-examined. When Mr. Foote came to Stonecutter Street I fancy he would sometimes visit my own apartments—Mr. Ramsay would sometimes be in the shop, and sometimes in the other parts of the house.

JAMES BARBER. I am Assistant-Registrar in the Newspaper Registration Office, Somerset House—I produce the original registers of the proprietors of the *Freethinker* under the statute—this one of 7th February,

1883, was made in my presence by Mr. Foote and Mr. Ramsay together; they were both present—Mr. Foote wrote it; it is all the same writing; I saw him write it.

WILLIAM OLDHAMSTEAD (*City Detective*). I know the shop 28, Stonecutter Street, and I know the present office of the Freethought Publishing Company in Fleet Street; they are not more than five minutes' walk apart—on 16th February I purchased this weekly number of the *Freethinker*, dated 18th February, at 28, Stonecutter Street, of defendant Kemp—I made a note of the date at the time I bought it—it is a Sunday newspaper; you can get them on the Thursday, dated up to the Sunday following. (*This stated that the Christmas number of the Freethinker had had an unprecedented sale, that they had spent lavishly on the Christmas number in order to carry their views far and wide, and were out of pocket by it.*) I served a notice to produce, of which this is a copy, on the defendant Foote, by leaving it at No. 9, South Crescent, Bedford Square, on 27th February—at that time he had been admitted to bail by the Lord Mayor.

Cross-examined by Foote. I left the notice with the servant, Mary Finter, I did not see you at the time—I have been buying some numbers of the papers; I was told to do so by my inspector, Mr. McWilliam—he did not give me the money to purchase them, I don't expect that he will; I expect to be repaid by the City Solicitor.

Cross-examined by Ramsay. I have no idea where the funds for this prosecution are coming from, no further than from the City Solicitor—I cannot say whether he is finding it out of his own pocket, I have no idea.

SARAH CURLE. I am the wife of Alfred Curle, and live at 9, South Crescent, Bedford Square—Mr. Foote has lodged with me about three years—my servant, Mary Finter, waits on him—I occasionally go into his room, very seldom—he has lived there down to the present time, and does so still—I could not swear that I have seen the Christmas number of the *Freethinker* in his room, I do not notice any particular book in his room—I may have seen it—I could not swear if I have seen a number of the *Freethinker* without the yellow cover; I have seen divers coloured books there; I could not swear to one book in particular—I have seen this cover, or the colour of it, not containing a number of the *Freethinker* to my knowledge—I may have seen copies of the *Freethinker* in his room. I have no doubt that I have—I could not swear to one in particular; I never examined any books in his room.

MARY FINTER. I am in the service of Mrs. Curle at 9, South Crescent, Bedford Square, and have been for fifteen months; during that time Mr. Foote has lodged there—I used to wait upon him and do his rooms—I have not seen the Christmas number of the *Freethinker* in his room. (MR. POLAND, in accordance with the notice to produce, called for the production of all letters and papers addressed to Foote relating to the *Freethinker*, and all letters and envelopes describing him as the editor of the *Freethinker*. MR. CLUER objected that the notice was not sufficient in itself, and that the service of it was too late, and was not proved to have reached the defendant. MR. JUSTICE NORTH did not think the service proved was sufficient.) The defendant was living at this address last week—I can't say that he slept there every night—he was there every day—when papers are left for him I take them up and put them in his room—I remember Oldhampstead

giving me a paper last week—I took it up into Mr. Foote's room—he slept at the house on the Wednesday night before the trial last week—I put the paper in his room directly it was given to me about half-past 5 in the afternoon—I don't think he slept in the house on the Tuesday night. (MR. CLUER still objected to the evidence, but MR. JUSTICE NORTH considered it was now admissible, the witness being the person who waited upon him, and it not appearing that he had a separate servant of his own.) There is a letter-box to the house—I generally take out the letters in the morning—letters addressed to Mr. Foote I put on the hall table—his rooms are at the top of the house, the third floor—some of the letters were addressed to Mr. G. W. Foote, 9, South Crescent, Bedford Square, very seldom as editor of the *Freethinker*; some were, but very seldom; I have only seen letters addressed to him in that way since the first trial.

Cross-examined by Foote. I cannot say that I have seen more than one copy of the Christmas number of the *Freethinker* in your room, I don't believe I have—I see papers of all shapes and all colours in your room—I never saw an envelope with the words "Editor of the Christmas number of the *Freethinker*" on it—I could not say that I saw any envelope or letter addressed as editor of the *Freethinker* between 16th November and 16th December—I have seen an envelope addressed "G. W. Foote, editor of the *Freethinker*," but very seldom—I can't say if I saw you between the time I received the notice paper and the following morning—you might have been there but I did not see you—I answer the door.

Re-examined. The lodgers have keys to let themselves in—Mr. Foote had a latch-key.

THOMAS WILLIAM JAMES ALFORD. I am a letter carrier—for the last eight years I have delivered letters at 9, South Crescent, Bedford Square—I have delivered letters there directed to G. W. Foote for the last year or two—some have been addressed G. W. Foote, Esq., editor of the *Freethinker*—I have here a memorandum which I made since Christmas—I can give no dates prior to that—I have seen letters so addressed before Christmas, I may say months before—I have also delivered newspapers so directed—I have delivered letters so addressed since Christmas, up to last Saturday week.

Cross-examined by Foote. I have no memorandum before Christmas—Oldhampstead served me with a subpoena—I had seen him before that—I had no conversation with him about this prosecution, not by himself, he called at our district post-office in Holborn, and I was called upstairs by the district postmaster, who asked me if I had had letters addressed to G. W. Foote, at 9, South Crescent—I don't think he asked me if I had had letters addressed to the editor of the *Freethinker*—this interview took place about a month back—I had had no conversation with anybody about this prosecution before that—I was instructed by my superior officer to make a memorandum as to the delivery of letters about a month ago.

By the COURT. I have my memorandum book here—I made the first memorandum about 10th February.

THOMAS CAMPBELL. I am a letter-carrier, and live at 84, Gower Place, Gower Street—I have been in the habit of delivering letters at 9, South Crescent, Bedford Square—I have been on duty there for 18 years—during the last year I have noticed how some of the letters I left there were addressed—some were addressed "G. W. Foote Esq., 9, South

Crescent, Bedford Square, some Mr. G. W. Foote, Editor of the *Free-thinker*, and some G. W. Foote Esq.—I noticed letters so addressed for several months past—I put them in the letter-box in the door—I remember on one occasion about three or four months ago, having a packet that was too big for the letter-box, and I rang the bell and gave it to the servant—that bore on it as part of the address “Editor of the *Free-thinker*”—I don’t know whether it had Mr. Foote’s name on it or not.

Cross-examined by Foote. Since I saw the detective, Oldhampstead, I have made memorandums of the delivery of letters addressed to you—that was, I believe, on the 9th of last month; the first memorandum I took was on the 10th—I have often delivered letters addressed to the Editor of the *Free-thinker*, but I can only recollect delivering one package, that was about three or four months ago, it might be longer—I cannot swear that I delivered any letter or package addressed to the Editor of the *Free-thinker* between 16th November and 16th December; I should be surprised to learn I had not, because my belief is that I have delivered letters to you so addressed pretty well every week; I could not swear as to that interval—the 9th February was the first time I had any conversation on this subject—I have not been paid anything for coming here to-day—I expect to be paid my expenses, it has cost me 6s. a day to get off—I received half a crown on the night the subpoena was served, nothing else.

WILLIAM LOY (*City Policeman* 495). I know the three defendants—I last saw Kemp at 28, Stonecutter Street on Wednesday last, Foote on 16th February, and Ramsay on Tuesday or Wednesday last—I have seen Kemp there for some months, Foote for four or five months, and Ramsay for the last two years.

Cross-examined by Mr. AVORY. I have seen Kemp behind the counter acting as shopman and serving the customers—I have been on duty at 6 a.m. and have seen the shop opened—I never saw Kemp open it—I have seen a boy close it several times—no one slept there—I have seen persons served with papers and books—it is four or five months since I first saw Kemp there.

Cross-examined by Foote. I have seen you there four or five times—the earliest day I can fix is January 21st, but I have seen you there for four or five months—I told the Magistrate four or five times; I may have said three or four—the last time was February 16th—I have not seen you transacting what looked like business, but I saw you go in and come out.

Cross-examined by Ramsey. A number of books and papers are sold there—I have seen you go in and out—Detective Sagar spoke to me three or four days before the first hearing, and said “Just take notice who you see going in and coming out of 28, Stonecutter Street”—he may have said that I was to take notice as to Ramsey going in and out, but I don’t remember, nor do I remember saying so before the Magistrate.

JOHN EDWARD KELLAND. I am a solicitor’s clerk, and live at 19, Peabody Square, Westminster—during the last year I have often been to 28, Stonecutter Street and bought the weekly numbers of the *Free-thinker*—I have seen all three of the defendants there—I usually made the purchases of Ramsay up to July, when I gave evidence at the Mansion House against him and Foote and Charles Bradlaugh—all these numbers produced were bought of Ramsay and given in evidence, and attention was called to the fact that they are edited by G. W. Foote,

and also to the fact of the heading for literary correspondence to be forwarded to the editor; and the statement at the end "Printed and published by W. J. Ramsay, 28, Stonecutter Street"—the first date of these is 24th March, 1882, and the last 18th June, 1882; some numbers are missing—after July I bought various other numbers there, most of them of Kemp—they run on every week, and early in December the Christmas number of the *Freethinker* is advertised—the earliest one is December 3rd: "Ready next week, the Christmas number of the *Freethinker*"—at the end of that here is "Printed and published by H. A. Kemp, 28, Stonecutter Street"—they have all Foote's name on them as editor, 9, South Crescent, Bedford Square—the number of Dec. 30 has the advertisement of the Christmas number, "now ready"—I saw Foote at 28, Stonecutter Street, on 28th February, not before.

Cross-examined by MR. AVORY. I can't say the earliest date I saw Foote there, but it was after the first prosecution at the Mansion House—my first purchase of Kemp was before the prosecution—I was conducting the prosecution in July and am now—I also asked Kemp for the *National Reformer*—I saw a number of other books and publications there.

Cross-examined by Foote. I did not buy this Christmas number in your presence—these numbers of the *Freethinker* have been in the custody of the solicitor for the prosecution—this is my signature on them; I put it on at the time of the purchase, not at the shop, but in the office—I am clerk to Messrs. Batten; they are solicitors to Sir Henry Tyler—the firm gave me the money to buy these numbers—I don't know whether Sir Henry Tyler pays for them—my employers did not tender them to Mr. Poland; I was subpoenaed to produce them—Sir Thomas Nelson may have written to the firm—I don't know whether I shall get any extra payment for this case—I expect to be treated liberally.

Cross-examined by Ramsay. I bought the copies in July, chiefly of you—you were in the habit of serving behind the counter—I don't think I have bought any of you since July.

Re-examined. My examination in July related to some of the weekly numbers—my depositions were taken and I signed them—I was called more than once, and my depositions were taken each time—in each case I attended on subpoena, which was served in the regular way, and I was asked to produce these numbers.

MR. CLUER submitted that there was no evidence against Ramsay on any of the counts. It was not proved that he was the proprietor after 7th February, 1882, so as to connect him with the Christmas number.

The COURT considered that there was ample evidence of publication.

MR. CLUER further contended that the prosecution must elect against which of the defendants they would proceed, as they ought to have been separately charged; the defendants being charged jointly, the offence must be proved jointly, and no joint offence against the three defendants had been proved.

MR. JUSTICE NORTH said that the case must go to the Jury, and declined to reserve the point.

Foote in his defence complained of the hardship of not having been admitted to bail on Thursday last, from which he had not only suffered considerably, but had been prevented from preparing his defence, which he had to do alone against three learned Counsel, backed by the wealth of the Corporation of London, who he thanked for the splendid advertisement which

their prosecution of the Freethinker had given to it, and contended that there was no proof that he was the editor ; and as to the publication itself, no witness had been called to say that his feelings had been outraged by it ; that it had not been forced on any one, and no one need have bought it who did not want it. He quoted largely from the works of Payne, Carlisle, Shelley, Byron, Professors Huxley and Tyndall, J. S. Mill, and others, whose works are still freely sold, and contended that if the Freethinker was blasphemous those works were blasphemous also, and that Christianity, like every other religion, ought to take its chance of success without having to depend upon law and police.

Ramsey in his defence also complained of the harshness of his imprisonment, having hitherto surrendered to his bail. He begged the Jury by their verdict to render obsolete the barbarous laws of former times ; he stated that the meaning of the word blasphemy had greatly changed during the last 250 years ; at that time Quakers were blasphemers, and were flogged at the cart's tail, but now one was allowed a seat in the Cabinet. He contended that the publication in question was only, as its name implied, a free expression of opinions.

GUILTY. FOOTE—*Twelve Months' Imprisonment.* RAMSAY—*Nine Months' Imprisonment.* KEMP—*Three Months' Imprisonment.*
